

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOANN COLLINS,

Plaintiff,

v.

AETNA LIFE INSURANCE
COMPANY and ABC CORP.,

Defendants.

NO: 12-CV-5049-TOR

ORDER DENYING DEFENDANT'S
MOTION FOR JUDGMENT ON THE
PLEADINGS AND GRANTING
PLAINTIFF'S MOTION FOR
DISCLOSURE AND DISCOVERY

BEFORE THE COURT are Defendant Aetna Life Insurance Company's Motion to Dismiss Plaintiff's State Law Claims as Preempted by ERISA and to Confirm a Bench Trial (ECF No. 15); Plaintiff's Motion for Disclosure and Discovery (ECF No. 19); and Plaintiff's Motion for Extension of Time to File Initial Expert Disclosure (ECF No. 25). These matters were heard without oral argument on November 1, 2012. The Court has reviewed the motions, the responses, the replies, and the record and files herein and is fully informed.

BACKGROUND

Plaintiff, JoAnn Collins (“Plaintiff”), has sued Defendant Aetna Life Insurance Company (“Aetna”) to recover the proceeds of a supplemental life insurance policy issued to her deceased son. Her causes of action include state law claims for breach of contract, bad faith denial of benefits, and violations of the Washington Consumer Protection Act, as well as a federal claim for violations of the Employee Retirement Income Security Act (“ERISA”).

At present, the primary dispute is whether the supplemental life insurance policy is subject to regulation under ERISA or whether ERISA’s so-called “safe harbor” exemption applies. If the plan is subject to ERISA, Plaintiff’s state law claims are likely preempted; if the safe harbor exemption applies, Plaintiff’s state law claims will likely go forward. Aetna has moved for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). Plaintiff opposes the motion on the ground that additional fact discovery is required to properly resolve the ERISA preemption issue.

FACTS

Plaintiff’s son, Jeff Stubblefield, died on May 23, 2010. Prior to his death, Mr. Stubblefield purchased a \$300,000 supplemental life insurance policy issued by Aetna through his employer, Alaska Airlines. Plaintiff is listed as the beneficiary of the policy. Following her son’s death, Plaintiff filed a claim for

1 benefits due under the policy. Aetna ultimately denied the claim on grounds not
2 directly relevant to the instant motion. This lawsuit followed.

3 DISCUSSION

4 The Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.*
5 (“ERISA”), is a comprehensive statute which regulates private employee benefit
6 plans. In enacting the statute, Congress sought to create a “uniform regulatory
7 regime,” *Aetna Health Inc. v. Davila*, 542 U.S. 200, 208 (2004), which would
8 “protect employers from conflicting and inconsistent state and local regulation of
9 [employee benefit] plans.” *Henkin v. Northrop Corp.*, 921 F.2d 864, 867 (9th Cir.
10 1990). To that end, Congress passed the statute with “expansive pre-emption
11 provisions” designed to ensure that the regulation of employee benefit plans
12 remains “exclusively a federal concern.” *Aetna Health*, 542 U.S. at 208 (internal
13 citations and quotation omitted). As a result of these provisions, “any state-law
14 cause of action that duplicates, supplements, or supplants [an] ERISA civil
15 enforcement remedy” is preempted by ERISA. *Id.* at 209.

16 Despite its broad preemption provisions, not all employee benefits plans are
17 subject to regulation under ERISA. Most notably for purposes of this case, ERISA
18 contains a “safe harbor” provision which exempts certain plans from federal
19 regulation. *See* 29 C.F.R. § 2510.3-1(j). To qualify for the safe harbor provision, a
20 plan must satisfy each of the following criteria:

1 (1) No contributions are made by the employer or employee
2 organization;

3 (2) Participation in the program is completely voluntary for
4 employees or members;

5 (3) The sole functions of the employer or employee organization with
6 respect to the program are, without endorsing the program, to permit
7 the insurer to publicize the program to employees or members, to
8 collect premiums through payroll deductions or dues checkoffs and to
9 remit them to the insurer; and

10 (4) The employer or employee organization receives no consideration
11 in the form of cash or otherwise in connection with the program, other
12 than reasonable compensation, excluding any profit, for
13 administrative services actually rendered in connection with payroll
14 deductions or dues checkoffs.

15 29 C.F.R. § 2510.3-1(j)(1)-(4). Provided that these criteria are satisfied, ERISA's
16 broad preemption provisions do not apply.

17 **A. Aetna's Motion for Judgment on the Pleadings and to Confirm Bench**
18 **Trial**

19 A motion for judgment on the pleadings is governed by Federal Rule of
20 Civil Procedure 12(c). Pursuant to Rule 12(c), a party may move for judgment on
the pleadings "[a]fter the pleadings are closed[,] but early enough not to delay
trial." Fed. R. Civ. P. 12(c). To prevail on such a motion, the moving party must
"clearly establish[] on the face of the pleadings that no material issue of fact
remains to be resolved and that it is entitled to judgment as a matter of law." *Hal*
Roach Studios, Inc. v. Richard Feiner and Co., Inc., 896 F.2d 1542, 1550 (9th Cir.
1990). In determining whether this standard has been satisfied, a reviewing court

1 must accept each of the non-moving party's allegations as true and must not
2 consider matters beyond the pleadings. *Id.*

3 In the instant case, the parties dispute whether the supplemental life
4 insurance plan issued to Mr. Stubblefield is subject to regulation under ERISA.
5 Aetna argues that the Court should decide the issue as a matter of law because
6 Plaintiff "repeatedly admitt[ed] in her Complaint that the supplemental life
7 insurance policy at issue is subject to ERISA." ECF No. 16 at 4. Because
8 "Plaintiff's state-law claims all unequivocally relate to her ERISA claim," Aetna
9 argues, the state law claims are categorically preempted. ECF No. 16 at 4. Thus,
10 in Aetna's view, Plaintiff is attempting to "have her cake and eat it too" by seeking
11 relief under both ERISA and state law. ECF No. 16 at 4.

12 Plaintiff concedes that her complaint seeks relief under ERISA, but argues
13 that her ERISA-related allegations are not controlling for purposes of the
14 preemption issue. Plaintiff asserts that she was unaware of ERISA's safe harbor
15 provision when she filed the complaint, and that, after having conducted additional
16 research and discovery, she now believes the safe harbor provision applies. ECF
17 No. 30 at 3. Accordingly, Plaintiff urges the Court to deny Aetna's motion and to
18 order additional fact discovery pertaining to the statutory safe harbor criteria before
19 deciding whether her state law claims are preempted.

1 The Court concludes that judgment on the pleadings is inappropriate.
2 Although Plaintiff clearly “believed that [the policy was] subject to [ERISA]”
3 when she filed her complaint, Pl.’s Compl., ECF No. 2 at ¶ 13, her ERISA-related
4 allegations are not fatal to her state law claims. The federal rules expressly allow a
5 party to plead inconsistent claims or defenses. Fed. R. Civ. P. 8(d)(3) (“A party
6 may state as many separate claims or defenses as it has, regardless of
7 consistency.”); *see also Molsbergen v. United States*, 757 F.2d 1016, 1019 (9th
8 Cir. 1985) (“In light of the liberal pleading policy embodied in Rule 8[(d)(3)] . . . a
9 pleading should not be construed as an admission against another alternative or
10 inconsistent pleading in the same case[.]”). Accordingly, the fact that Plaintiff’s
11 complaint seeks relief under ERISA does not automatically render her state law
12 claims preempted. At least at the pleading stage, Plaintiff is entitled to assert both
13 types of claims. Aetna’s motion for judgment on the pleadings and to confirm a
14 bench trial¹ is denied.

15 **B. Plaintiff’s Motion for Disclosure and Discovery**

16 Plaintiff has asked the Court to order additional fact discovery pertaining to
17 whether the supplemental life insurance policy purchased by Mr. Stubblefield

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19 ¹ Aetna’s motion to confirm a bench trial is denied with leave to renew following
20 additional discovery on the ERISA preemption/safe harbor issue.

1 satisfies the statutory safe harbor criteria set forth in 29 C.F.R. § 2510.3-1(j). In
2 support of this motion, Plaintiff asserts that the safe harbor analysis is inherently
3 fact-sensitive and that additional discovery is required to determine, *inter alia*,
4 whether Alaska Airlines “endorsed” the plan within the meaning of § 2510.3-
5 1(j)(3) and whether the plan can be “severed” from a larger benefits package
6 offered by Alaska Airlines which is, apparently, subject to regulation under
7 ERISA. Plaintiff concedes that the safe harbor issue may be a “close call,” but
8 maintains that additional discovery is required to resolve the issue definitively.
9 ECF No. 37 at 3.

10 The Court agrees. As Plaintiff correctly notes, the statutory safe harbor
11 analysis hinges largely on questions of fact. At this early stage of the litigation, the
12 record consists of (1) documents produced by Aetna from the administrative
13 record; (2) a Summary Plan Description (“SPD”) prepared by Alaska Airlines; (3)
14 an ERISA-related disclosure document filed by Alaska Airlines with the
15 Department of Labor; (4) an email from Plaintiff to her attorney in which Plaintiff
16 relays details of a conversation with a member of Alaska Airlines’ human
17 resources department; and (5) correspondence between Plaintiff’s counsel and
18 counsel for Alaska Airlines concerning the safe harbor issue.

19 Although these documents shed some light on the underlying facts, the
20 Court concludes that additional discovery—most notably a deposition of an Alaska

1 Airlines representative with knowledge of the supplemental life insurance plan
2 offering pursuant to Rule 30(b)(6)—is necessary to facilitate a proper ruling. In
3 light of the substantial impact that this ruling will have on the case, the Court will
4 grant Plaintiff’s motion and order that the parties engage in targeted discovery to
5 determine whether the supplemental life insurance plan offering satisfies the
6 statutory safe harbor criteria set forth in 29 C.F.R. § 2510.3-1(j). This discovery
7 shall be completed no later than November 30, 2012.

8 **C. Plaintiff’s Motion to Extend Expert Disclosure Deadline**

9 Plaintiff has moved for an extension of the existing September 11, 2012
10 expert witness disclosure deadline on the ground that Aetna has refused to provide
11 discovery related to her state law claims. Until Aetna provides such discovery,
12 Plaintiff argues, she will be unable to engage in any meaningful expert discovery.
13 Aetna counters that the expert disclosure deadline is essentially moot. According
14 to Aetna, no expert testimony will be permitted in this case because “Plaintiff’s
15 sole claim is an ERISA claim, all of her state-law claims are preempted, and
16 review of this matter will be on the administrative record [only].” ECF No. 35 at
17 2. Aetna also argues that Plaintiff’s motion is untimely.

18 The Court agrees that the need for expert testimony on Plaintiff’s state law
19 claims is contingent upon Plaintiff prevailing on the ERISA preemption issue.
20 Accordingly, the Court will defer ruling on Plaintiff’s motion to extend the expert

1 disclosure deadline until the parties have completed their targeted discovery and
2 have fully briefed the preemption issue in a subsequent motion to dismiss or
3 motion for summary judgment.

4 **ACCORDINGLY, IT IS HEREBY ORDERED:**

5 1. Defendant Aetna Life Insurance Company's Motion to Dismiss

6 Plaintiff's State Law Claims as Preempted by ERISA and to Confirm a
7 Bench Trial (ECF No. 15) is **DENIED**. Defendant is granted leave to
8 renew its motion to confirm a bench trial in conjunction with any future
9 dispositive motion concerning the ERISA preemption issue.

10 2. Plaintiff's Motion for Disclosure and Discovery (ECF No. 19) is

11 **GRANTED**. The parties shall engage in targeted discovery to determine
12 whether the supplemental life insurance plan purchased by Mr.
13 Stubblefield satisfies the ERISA safe harbor criteria set forth in 29 C.F.R.
14 § 2510.3-1(j). This discovery shall be completed no later than **December**
15 **10, 2012**.

16 3. The Court **defers ruling** on Plaintiff's Motion for Extension of Time to
17 File Initial Expert Disclosure (ECF No. 25) pending resolution of the
18 ERISA preemption issue.

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1 The District Court Executive is hereby directed to enter this Order and
2 provide copies to counsel.

3 **DATED** this 1st day of November, 2012.

4 *s/ Thomas O. Rice*

5 THOMAS O. RICE
6 United States District Judge
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